

September 6, 2022

VIA ECF

The Honorable Victor Marrero  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl St.  
New York, NY 10007-1312

Re: *China AI Capital Limited v. DLA Piper LLP (US) et al.*,  
Case No. 1:21-cv-10911 (S.D.N.Y.)

Dear Judge Marrero:

We represent Plaintiff China AI Capital Ltd. (“China AI”) in connection with the above-referenced matter. We write to request that this action be voluntarily dismissed without prejudice pursuant to Rules 41(a)(1)(A)(i) and 23.1(c).

This action was brought derivatively by China AI on behalf of Link Motion Inc. (“LKM”), which has been the subject of a receivership and preliminary injunction entered in the case *Baliga v. Link Motion Inc.*, 1:18-cv-11642-VM (S.D.N.Y.). On August 25, 2022, the Court ordered the discharge of receiver and dissolution of the preliminary injunction in the *Baliga* action.

We have been advised that on September 1, 2022 the Board of Directors of LKM held a meeting and decided to assume control over the claims asserted by China AI in this action in light of the dissolution of the preliminary injunction in the *Baliga* action. China AI consents to the assumption of control by LKM of the underlying claims in this action and dismissal of this action without prejudice. Neither party in this action has submitted an answer or motion for summary judgment, discovery has not begun, and China AI has now filed a Notice of Voluntary Dismissal Without Prejudice pursuant to Rule 41(a)(1)(A)(ii).

Consequently, this case should be dismissed without prejudice, pursuant to Rules 41(a)(1)(A)(i) and 23.1(c). See *Yousef v. Tishman Constr. Corp.*, 744 F.3d 821, 826 (2d Cir. 2014) (finding that voluntary dismissal pursuant to Rule 41(a)(1)(A) must be without prejudice regardless of fact that dismissal required consent of the Court pursuant to another rule or statute) (citing *In re PaineWebber Ltd. P’ships Litig.*, 147 F.3d 132, 137 (2d Cir. 1998); *Creighton v. Taylor*, No. B-90-151(WWE), 1990 U.S. Dist. LEXIS 15597, at \*5 (D. Conn. Oct. 22, 1990).

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China AI respectfully requests that, pursuant to Rule 23.1(c), the Court approve the voluntary dismissal of this action without prejudice by “so-ordering” this letter. Given that we expect LKM to assume prosecution of the underlying claim, the notice to other shareholders contemplated by Rule 23.1(c) may be obviated so long as LKM files the anticipated action.

Sincerely,

*/s/ Rosanne E. Felicello*

Rosanne E. Felicello